No. 93-1883

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

ELOISE ANDERSON, in Her Official Capacity as Director of the California Department of Social Services and RUSSELL GOULD in His Capacity as Director of the California Department of Finance,

Petitioners,

v.

VERNA EDWARDS, Guardian ad Litem for Verna Edwards, et al.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF OF AMICI CURIAE OF THE STATES OF NEVADA, ALASKA, FLORIDA, HAWAII, ILLINOIS, MONTANA, NEW JERSEY, OKLAHOMA, RHODE ISLAND, SOUTH DAKOTA, AND WYOMING, THE TERRITORY OF GUAM, AND THE DISTRICT OF COLUMBIA SUPPORTING PETITIONERS

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INTEREST OF AMICI CURIAE

Nevada spends $350,000 in additional benefits under the Aid to Families with Dependent Children (hereinafter "AFDC") program because of the lower court decision in this case, *Edwards v. Healy*, 12 F. 3rd 154 (CA9 1993) and the earlier decision of *Beaton v. Thompson*, 913 F. 2d 701 (CA9 1990). Soon after the Ninth Circuit Court of Appeals decided *Beaton* the Nevada Welfare Division entered into a consent order agreeing to comply with that decision. *Adams v. Griepentrog*, U.S.D.C. Nev. # CV-S-90-451. Hereinafter, the rule established by these cases is referred to as the "*Beaton-Edwards* rule."

The case arises in this situation. Some children who are eligible for AFDC do not live with their parents (hereinafter "eligible children"). Instead, they reside with a caretaker relative such as an aunt or uncle (hereinafter "caretaker relative"). In addition, the caretaker relative has offspring who receive AFDC (hereinafter "eligible offspring").

In this situation, the California regulation assigns the

eligible children, eligible offspring, and caretaker relative to one assistance unit. In contrast, the Nevada Welfare Division, as required by the *Beaton-Edwards* rule, assigns eligible children living with a caretaker relative to a different assistance unit than the caretaker relative and eligible offspring who are AFDC recipients. The result is a substantially higher cost of the program to Nevada and to the United States Department of Health and Human Service (hereinafter "HHS").

The reason for this increased cost is that in the AFDC program each assistance unit receives a basic grant. Then, the basic grant increases incrementally for each additional person in the assistance unit. If the California regulation is followed, a household with an eligible child living with a caretaker relative and eligible offspring receives one basic grant which is incrementally increased. Under the *Beaton-Edwards* rule, these households receive two basic grants: one for the assistance unit containing the eligible child and a second for the assistance unit containing the caretaker relative and his or her eligible offspring.

An example is helpful. Assume that a household contains a mother and her one eligible offspring. In Nevada, this assistance unit receives an AFDC basic grant of $229 (basic grant for a one-person assistance unit) plus about $60 per month for the one additional member for a total of $289. For some reason, the mother's minor nephew (the eligible child) moves into their home. Under the former Nevada rule which is similar to the California regulation, the household's AFDC grant increases incrementally by $60 for the additional child. The household would receive the following AFDC assistance:

Grant for the Assistance Unit containing the mother plus her eligible offspring (Basic Grant plus incremental increase for one person)	$289
Incremental increase for the eligible child	60
Total AFDC received by the Household	$349

Under the *Beaton-Edwards* rule, the result changes significantly. Nevada must establish two assistance units in these households and pay the following amounts:

Grant for the Assistance Unit containing the mother and her eligible offspring (Basic Grant plus incremental increase for one person)	$289
Grant for the Assistance Unit containing the eligible child (Basic Grant)	229
Total AFDC received by the Household	$518

Nevada spends an additional $350,000 each year in AFDC benefits under the *Beaton-Edwards* rule than it would under the California regulation. Nevada has a small population. The financial costs of the *Beaton-Edwards* rule are substantial when projected across the country. States should not be forced to allocate benefits in this way unless Congress or HHS has specifically required this expenditure.

Many other States have this interest. In a survey conducted by the State of North Carolina and HHS, they found that twenty nine States have rules or policies that violate the *Beaton-Edwards* rule. The interest of these States is further demonstrated by the number of States who have joined in this amici curiae brief. In contrast, only thirteen States follow the *Beaton-Edwards* rule. Eight States implement a policy different than either of these two.

In this case, the United States Court of Appeals for the Ninth Circuit held that state AFDC agencies could not lawfully consolidate the eligible child into one assistance unit with the caretaker relative and eligible offspring. *Edwards v. Healy*, 12 F. 3rd 154 (1993); *Beaton v. Thompson*, 913 F. 2d 701 (1990). The Massachusetts Supreme Judicial Council, the United States Court of Appeals for the Second Circuit, and the United States Court of Appeals for the Eighth Circuit reached the opposite conclusion. *MacInnes v. Com'r. of Public Welfare*, 412 Mass. 790, 593 N.E.2d 222 (1992); *Bray v. Dowling*, 25 F. 3d 135 (CA2 1994); *Wilkes v. Gomez*, 32 F.3d

1324, (CA8 1994) reversing *Wilkes v. Steffen*, 831 F. Supp. 723 (D. Minn. 1993). In addition, the same question is before the North Carolina Supreme Court in *Morrell v. Flaherty*, 109 N.C.A. 628, 428 S.E.2d 492 (1993) motion for temporary stay granted, 333 N.C. 792, 430 S.E.2d 424, supersedeas allowed, 334 N.C. 165, 432 S.E.2d 364 (1993). The amici curiae are asking the United States Supreme Court to resolve the conflict by reversing the decision of the Ninth Circuit Court of Appeals.

SUMMARY OF ARGUMENT

The Aid to Families with Dependent Children program provides federal financial assistance to States which provide grants to needy children under State Plans meeting minimum federal requirements. State AFDC regulations are valid unless they directly and unambiguously violate federal law. The starting point in interpreting regulations are the words of the regulation.

Title 45 C.F.R. § 233.20(a)(2)(viii) prohibits a State from reducing the standard of need solely because of the

presence in the home of a non-legally responsible person. California Regulation § 82-824.1 does not affect the standard of need. If it does reduce the standard of need, it does not do so solely because of the presence of a non-legally responsible person. It is because that person, the caretaker relative, is also an AFDC recipient.

Title 45 C.F.R. § 233.90(a)(1) prohibits a State from finding a child ineligible or assuming the availability of income because of a substitute parent. California Regulation § 82-824.1 does not find a child ineligible because of the caretaker relative. Nor does it assume the availability of income of the caretaker relative. The California regulation does assume the availability of the basic benefit grant; that is not "income" under California AFDC law.

There are policy reasons for either consolidating the assistance units or creating multiple assistance units in these households. If the federal government decides which is the best policy for children and families, Congress would pass a statute or HHS would adopt a regulation clearly implementing

the best policy. Absent such a law, the States should be free to experiment.

Finally, the court should defer to interpretations of the federal regulations by HHS. In two action transmittals, one in 1986 and one in 1994, HHS held that States may consolidate assistance units or create multiple assistance units in these households. Accordingly, the United States Supreme Court should reverse the decision of the United States Court of Appeals for the Ninth Circuit.

ARGUMENT

I. STATES MAY CONSOLIDATE ELIGIBLE CHILDREN WHO LIVE WITH A CARETAKER RELATIVE AND ELIGIBLE OFFSPRING INTO ONE ASSISTANCE UNIT. CALIFORNIA REGULATION § 82-824.1 DOES NOT VIOLATE ANY FEDERAL AFDC REGULATION.

Aid to Families with Dependent Children, 42 U.S.C. §§ 601-615, is based upon a scheme of cooperative federalism. *King v. Smith*, 392 U.S. 309 (1968). Participating States provide financial assistance to needy dependent children and the parents or relatives who care for them. The federal

government reimburses each State which chooses to participate a percentage of the expended funds. 42 U.S.C. 601. To receive reimbursement, the State must provide the financial assistance under a plan which conforms with federal statutes and regulations. 42 U.S.C. § 602. *Bowen v. Gilliard*, 483 U.S. 587, 589 n. 1 (1987). *Heckler v. Turner*, 470 U.S. 184 (1985).

To determine if state regulations violate federal law the courts examine the state policy and federal law. But, "Congress 'has given the States broad discretion,' as to the AFDC program, . . . and '[s]o long as the State's actions are not in violation of any specific provision of the Constitution or the Social Security Act,' the courts may not void them. *New York Dept. of Social Services v. Dublino*, 413 U.S. 405, 423, n. 29 (1973) (citations omitted); *Rush v. Smith*, 573 F.2d 110 (CA2 1978). The standard has been worded in different ways. *Dublino* says state AFDC regulations are valid unless prohibited in "direct and unambiguous language." 413 U.S. at 414. *Confederated Tribes, etc. v. State of Washington*,

591 F.2d 89 (CA9 1979) approves state regulations absent a "clear manifestation" of federal law. *Wisdom v. Norton*, 507 F.2d 750 (CA2 1974) uses the phrase "clear and unambiguous" language." 507 F. 2d at 755.

The State regulation at issue in this case is California State Department of Social Services Manual of Policies & Procedures § 82-824.1. It states:

Combining AUs	Two or more AUs [assistance units] in the same home shall be combined into one AU when:
. . . .	
.13 One caretaker	There is only one caretaker relative.

In the AFDC program benefit grants are paid to assistance units. 45 C.F.R. § 206.10(b)(5). Federal statute requires the parent and the brothers and sisters of the dependent child to be in the same assistance unit. 42 U.S.C. § 602(a)(38); 45 C.F.R. § 206.10(a)(1)(vii). Other than that requirement, "(n)either the Social Security Act nor the corresponding regulations comprehensively define the composition of an AFDC assistance unit, ..." *Bray v.*

Dowling, 25 F.3d 135, 141 (CA2 1994); *Allen v. Hettleman*, 494 F. Supp. 854 (D. Md. 1980).

The lower court in this case held that California Regulation MPP § 82-824.1 was invalid under the rule in *Beaton* and did not specify the federal regulations that were allegedly violated. To decide the federal regulations to be analyzed in this case, the court must review *Beaton v. Thompson*, 913 F. 2d 701 (CA9 1990). The court in *Beaton* specified that Washington Administrative Code § 388-24-050(3) (which is similar to California Regulation § 82-824.1) violated 45 C.F.R. §§ 233.20(a)(2)(viii), 233.90(a)(1), and 233.20(a)(3)(ii)(D). 913 F.2d at 704.

A. CALIFORNIA REGULATION § 82-824.1 DOES NOT DIRECTLY AND UNAMBIGUOUSLY VIOLATE 45 C.F.R. § 233.20(A)(2)(viii).

When a court interprets regulations, it should start with the words of the regulation. See *Sullivan v. Stroop*, 496 U.S. 478 (1990). Title 45 C.F.R. § 233.20(a) states:

> *Requirements for State Plans*. A State Plan for . . . AFDC . . . must, as specified below:

> (2)(viii) Provide that the money amount of any need item included in the standard will not be prorated or otherwise reduced solely because of the presence in the household of a non-legally responsible individual. (emphasis added).

California Regulation § 82-824.1 does not violate 45 C.F.R. § 233.20(a)(2)(viii) for three reasons. First, the California regulation does not affect a "need item included in the standard." Second, it does not reduce any need item included in the standard. Finally, if the California regulation is construed as reducing a need item in the standard, the reduction is not caused solely because of the presence of a non-legally responsible individual.

Analyzing the first point, § 82.824.1 does not affect a need item included in the standard. The phrase, "need item included in the standard " in 45 C.F.R. § 233.20(a)(2)(viii) refers to the standard of need which must be established by each state to participate in the AFDC program. Title 45 C.F.R. § 233.20(a) states, in relevant part: "A State Plan for . . . AFDC . . . must, as specified below: (2)(i) Specify a

statewide standard, expressed in money amounts, to be used in determining (a) the need of applicants and recipients and (b) the amount of the assistance payment."

The "statewide standard . . . determining (a) the need of applicants and recipients" is the amount of money it takes to support a hypothetical family at the subsistence level in that state. *Shea v. Vialpando*, 416 U.S. 251, 253 (1974). In contrast, the "statewide standard . . . determining . . . (b) the amount of the assistance payment" is the percentage of the standard of need that a State is willing to pay this family. The United States Supreme Court distinguished the standard of need from the standard of benefit in both *Dandridge v. Williams*, 397 U.S. 471, 478 (1970) and *King v. Smith*, 392 U.S. 309, 334 (1968).

California Regulation § 82-824.1 does not affect the standard of need for the assistance unit. Rather, the California regulation defines who will be included in the assistance unit. For this reason, 45 C.F.R. § 233.20(a)(2)(viii) does not apply to this California regulation.

Addressing the second point, the California regulation does not reduce the standard of need of the household. Section 233.20(a)(2)(viii) prohibits a State from reducing the standard of need solely because of the presence in the household of a non-legally responsible individual. California Regulation § 82-824.1 increases the level of benefit to the household by the same amount as an additional offspring of the caretaker relative would increase the level of benefit. The household's AFDC assistance does not increase by the amount of a basic grant. This constitutes a smaller increase but it is not a reduction of the standard of need of the assistance unit.

Third, if the court decides that this is a reduction of the standard of need, then California does not reduce the standard of need solely because of the presence of a non-legally responsible individual. Under California Regulation § 82-824.1 the benefit grant is being reduced because of (1) the presence of a non-legally responsible individual; and (2) who is also a recipient of AFDC. These two conditions must be met in order to reduce the benefit amount. The reduction

is not solely because of the presence in the household of a non-legally responsible individual.

The California regulation recognizes "'the common sense proposition that individuals living with others usually have reduced per capita costs because many of their expenses are shared.' *Termini v. Califano*, 611 F.2d 367, 370 (CA2 1979)." *Bowen v. Gilliard,*, 483 U.S. 587, 599-600 (1987). Under the AFDC program, a State provides direct financial subsidies to families in need. Absent any specific federal prohibition, the State should be able to grant a smaller increase because it is already providing a basic grant to the household.

In summary, 45 C.F.R. § 233.20(a)(2)(viii) prohibits a State from reducing the standard of need solely because a non-legally responsible individual lives in the household. The California regulation does not affect the standard of need of these households. Second, it increases the benefit grant by a smaller amount rather than reducing the grant. Finally, if this is interpreted as a reduction, then the California regulation reduces the assistance to a household because a non-legally

responsible individual lives in the household who is also receiving AFDC. California Regulation § 82-824.1 does not violate 45 C.F.R. § 233.20(a)(2)(viii).

B. CALIFORNIA REGULATION § 82-824.1 DOES NOT DIRECTLY AND UNAMBIGUOUSLY VIOLATE 45 C.F.R. §§ 233.90(a)(1) or 233.20(a)(3)(ii)(D).

Once again the words of the federal regulation are the starting point. Title 45 C.F.R. § 233.90(a)(1) states, in pertinent part:

> Under this requirement, the inclusion in the family, or the presence in the home, of a "substitute parent" or "man-in-the-house" or any individual other than one described in this paragraph is not an acceptable basis for a finding of ineligibility or for assuming the availability of income by the State; (emphasis added).

Title 45 C.F.R. § 233.90(a)(1) contains two prohibitions. First, the presence of a non-legally responsible adult in a home cannot result in a finding of ineligibility for AFDC. Second, the presence of a non-legally responsible adult cannot result in an assumption of the availability of the non-responsible adult's income. Neither one of these

prohibited situations occur under the California regulation.

Addressing the first point, under the California regulation the eligible child is not found ineligible for AFDC because of the presence of a non-legally responsible adult in the home. The child is eligible for AFDC assistance. The eligible child is merely assigned into the already existing assistance unit. The benefit grant being paid to that assistance unit is increased incrementally.

Second, California Regulation § 82-824.1 does not assume the availability of any income of the caretaker relative to the eligible child. The California regulation assumes that a portion of the caretaker relative's basic benefit grant is available to the eligible child. The benefit grant is not income within the meaning of 45 C.F.R. § 233.90(a)(1).

Neither federal statutes or regulations define the term "income" under AFDC. See *Lukhard v. Reed*, 481 U.S.368 (1987) where U.S. Supreme Court interpreted Virginia law on the meaning of term "income." In *LaMadrid v. Hegstrom*, 830 F.2d 1524 (CA 9 1987) the Ninth Circuit Court of Appeals

construed the term income under the AFDC state laws of Oregon and Washington. One federal district court held that Missouri may decide the meaning of word "income" under AFDC law. *Payne v. Toan,* 671 F. Supp. 1247 (W.D.Mo. 1987).

When neither Congress in statute nor the federal agency in regulation has provided a definition of "income", a State has the discretion to develop its own definition. *Barnes v. Cohen*, 749 F. 2d 1009 (CA 3 1984), *cert. denied*, 471 U.S. 1061. In this situation, California has chosen to interpret the term, "income" in the AFDC law to exclude an AFDC benefit grant.

The caretaker relatives argue that under California law, an AFDC benefit grant is income and cite *Daniels v. McMahon*, 4 Cal.App.4th 48, 5 Cal.Rptr. 2d 404 (Cal.App. 1 Dist. 1992). This is a misstatement of the rule of that case. *Daniels* held that "aid paid pending" an administrative hearing to determine a termination or reduction of AFDC benefits was "other available income" under California AFDC regulations.

"Aid paid pending" is money the state determines was illegally paid AFDC and should not have been paid. For that reason, "aid paid pending" was held to be "income" under California AFDC laws. The court in *Daniels* did not decide that a properly paid AFDC grant was income under California AFDC law.

In *Bray v. Dowling*, 25 F.3d 135 (CA 2 1994) the Second Circuit Court of Appeals held that the benefit grant was not income within the meaning of the federal regulations. In that case, the court held that 45 C.F.R. § 233.90(a)(1) does not bar a state presumption that the AFDC benefit grant is available to meet the needs of dependent minors.

Title 45 C.F.R. § 233.90(a)(1) prohibits a state from presuming the "availability of income." Title 45 C.F.R. § 233.20(a)(3)(ii)(D) merely provides further definition to the term "available." It states: "(I)ncome and resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for

support and maintenance."

In this case, the AFDC benefit grant is not income within the meaning of either Section 233.90(a)(1) or 233.20(a)(3)(ii)(D). For this reason, the definition of "available" does not need to be considered.

The Massachusetts Supreme Judicial Council and the Eighth Circuit Court of Appeals took a different approach when interpreting these regulations. In *MacInnis v. Com'r. of Public Welfare*, 412 Mass. 790, 593 N.E. 2d 222 (1992) and in *Wilkes v. Gomez*, 32 F.3d 1324 (CA 8 1994) the courts held that 42 U.S.C. § 605 created an obligation under federal law for the caretaker relative to use the entire grant for the benefit of everyone in the assistance unit including the eligible child. It found that the benefit grant was income within the meaning of 45 C.F.R. § 233.20(a)(3)(ii)(D) and that 42 U.S.C. 605 required it to be available to each member of the assistance unit.

The careful analysis of the Massachusetts Supreme Judicial Council, the United States Court of Appeals for the

Second Circuit, and the United States Court of Appeals for the Eighth Circuit contrasts with opinions of the United States Court of Appeals for the Ninth Circuit in *Edwards v. Healy*, 12 F. 3rd 154 (1993) and *Beaton v. Thompson*, 913 F. 2d 701 (1990). In *Beaton*, the Ninth Circuit summarily reviewed these three federal regulations in three paragraphs. In *Edwards*, the court did not discuss the regulations but merely concluded that under *Beaton* the California regulation violated the federal regulations. The only United States circuit court of appeals that holds consolidating assistance units violates federal regulations has virtually done no analysis.

In conclusion, California Regulation § 82-824.1 does not violate 45 C.F.R. §§ 233.90(a)(1) or 233.20(a)(3)(ii)(D). The presence of the caretaker relative does not result in the finding of ineligibility because of the eligible child in fact receives AFDC assistance. Also, the present of the caretaker relative does not assume the availability of income because the AFDC grant is not income within the meaning of state or federal law. Finally, if the caretaker relative's AFDC basic

grant is considered income, federal law creates the legal obligation of the caretaker relative to spend the basic grant on the eligible child.

II. IN PROGRAMS OF COOPERATIVE FEDERALISM, STATES ARE ALLOWED TO EXPERIMENT UNTIL THE FEDERAL GOVERNMENT ADOPTS A LAW WHICH DIRECTLY AND UNAMBIGUOUSLY OUTLINES THE BEST POLICY CHOICE.

Two contrasting policies are involved in this case. First, a policy reason exists for consolidating the assistance units as allowed by the *MacInnes*, *Bray*, or *Wilkes* decisions. That is, a State wants a caretaker relative to accept an eligible child into the home because of the family affection that exists. The State does not want caretaker relatives to accept eligible children because they receive a larger financial subsidy from AFDC than they receive as a result of having a biological child. Further, consolidating the assistance units allows more funds to be distributed between all AFDC families rather than only available for families with eligible children.

In addition, there is a policy reason for establishing more than one assistance units in these households as required by *Beaton* and *Edwards*. The policy reason for recognizing more than one assistance unit is that a State wants to create a financial incentive for caretaker relatives to raise related, eligible children. The State does not want to financially burden caretaker relatives willing to care for related children who are not offspring.

If the federal government decides which policy choice is best for the children, families, and the AFDC program, Congress could adopt a statute or HHS could adopt a regulation directly and unambiguously describing the best course of action. Federal law could require either consolidation of assistance units or creation of multiple assistance units. Then, AFDC States would be required to follow that course of action. The result is that when the federal government knows what is best for children, families, and the AFDC program it adopts a law implementing that knowledge.

Absent clear federal laws limiting States' activities, "[t]here is no question that States have considerable latitude in allocating their AFDC resources . . . ." *Dandridge v. Williams*, 397 U.S. 471, 478 (1970) (cite omitted). *Deel v. Jackson*, 862 F.2d 1079, 1083 (CA4 1988) *cert. denied*, 490 U.S. 1092. If this court reverses the United States Court of Appeals for the Ninth Circuit, States will not be limited to recognizing only one assistance unit in these households. Rather, States will have the opportunity to experiment and choose whether to establish one assistance unit or more assistance units in these households. Each State will make that policy choice until the Congress or HHS makes a decision what is best for all families and children.

III. THE SUPREME COURT SHOULD DEFER TO THE HHS'S INTERPRETATION OF THESE REGULATIONS.

Courts defer to agency interpretations of regulations. "(W)hen it is the Secretary's regulation that we are construing, and when there is no claim in this Court that the regulation violates any constitutional or statutory mandate, we are

properly hesitant to substitute an alternative reading for the Secretary's unless that alternative reading is compelled by the regulation's plain language or by other indications of the Secretary's intent at the time of the regulation's promulgation." *Gardebring v. Jenkins*, 485 U.S. 415, 430 (1988); *Armstrong v. Palmer*, 879 F.2d 437 (CA8 1989); *Rosas v. McMahon*, 945 F.2d 1469 (CA9 1991) "'(T)he construction of a statute by those charged with its execution should be followed unless there are compelling indications that it is wrong . . .'" *Dublino*, 413 U.S. at 421 (citations omitted). *Miller v. Youakim*, 440 U.S. 125, 144 (1979). Broad deference is more warranted when the regulation concerns a complex regulatory program. *Thomas Jefferson University v. Shalala*, 62 USLW 4601, (No. 93-120, June 24, 1994)

The United States Supreme Court should defer to HHS's interpretation of these regulations. In this case, the caretaker relatives do not argue that the federal regulations violate the federal constitution or statutes. In addition, the AFDC program is complex. Both of these concepts

demonstrate that the Supreme Court should defer to HHS's interpretation of these regulations.

Since 1986, HHS has interpreted the federal regulations to allow States to define the assistance unit. On January 13, 1986, HHS issued Action Transmittal No. SSA-AT-86-1. It stated:

> Outside of this policy, it is up to the State to establish policy on the number of assistance units in the household, e.g., when an individual not related to a member of an assistance unit as a parent, brother or sister lives in the household and files for assistance. (emphasis added)

Appendix to the Petition for Writ of Certiorari, p. 50.

In 1994, HHS issued additional instructions in Action Transmittal No. ACF-AT-94-6. It clarified, again, that States had the authority to decide the number of assistance units within a household. It says: ". . . States are authorized to set the Statewide policy, to be applied to all cases, whether and under what conditions two or more assistance units in the same household are to be consolidated or retained as separate units." Appendix to the Petition for Writ of Certiorari, P. 35.

Both action transmittals clearly state that HHS holds the opinion that California Regulation § 82-824.1 is not prohibited by any federal regulations. The United States Supreme Court should defer to this opinion in construing the federal regulations. As a result, the California regulation does not violate any federal regulations.

In summary, the courts should defer to HHS's interpretation of its own regulations. This is especially true since there is no challenge to the regulations on constitutional or statutory grounds and AFDC is a complex program. California Regulation § 82-824.1 does not violate any federal regulation.

CONCLUSION

"So long as the States's actions are not in violation of any specific provision of the Constitution or the Social Security Act, appellants' policy arguments must be addressed to a different forum." *Jefferson v. Hackney*, 406 U.S. 535, 541 (1972). In this case, California Regulation § 82-824.1 does not violate 45 C.F.R. §§ 233.20(a)(2)(viii), 233.90(a)(1), or

233.20(a)(3)(ii)(D). The decision of the United States Court of Appeals for the Ninth Circuit in *Edwards v. Healy*, 12 F. 3d 154 (1993) should be reversed.

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Respectfully submitted,

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